



## IAOPA - KENYA

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### **BUSINESS AS USUAL DESPITE NEW KENYA CIVIL AVIATION REGULATIONS**

Reports from the field indicate that, so far, KCAA inspectors have not "swooped down" on aircraft operators in Kenya to enforce the new contentious Kenya Civil Aviation Regulations. (KCARS). Despite the fact that a few dozen of the regulations are virtually impossible to adhere to in an aviation environment like Kenya, where 80% of flying is done into ill-equipped "bush strips", KCAA has so far not harassed anybody or even closed down operators who are every day transgressing the new law. It would appear that, either KCAA does not actually have the enforcement capacity to implement its ill-conceived rules, or it is now happy that at least on paper Kenya has met the ICAO SARPS and procedures. It remains to be seen if this "honeymoon" will last or whether KCAA will eventually produce the army of inspectors that is required if it is serious about implementing its new rules.

Some examples of KCARs that are injurious to operators of aircraft and airfields are:

1. All airfields (even the most basic bush runway) must be "fenced", have a "Security Plan", an "Airport Manager", a "Security Committee", etc. All that of course also applies not only to private airstrips, but also to Government runways in the outback. Most operators do not believe that the Government (Kenya Wildlife Service, town councils, villages, Kenya Police, etc.) will ever be able to adhere to its own rules, leave alone the missions, camps, farmers, etc. out there who have landing strips that may be used once or twice a month. It is also a question whether the KCAA actually knows where most of these remote airstrips are located. The private sector knows that there are at least 600 airstrips in Kenya, but the official AIP only shows about 350. KCAA will have to do a lot of flying and driving around to find the rest.
2. Each airstrip, according to the regulations, must undergo an 'annual inspection'. It is doubtful that KCAA has the capacity (vehicles, inspectors, aircraft) to actually do that.
3. Commercial aircraft are required to fly only into airfields that are adequately equipped, manned, have 'security' in place, are able to offer the latest weather information, etc. It is doubtful that Kenya can actually provide such facilities, but insurance companies are likely to fall back on the latest law in case of a claim.

There are many other requirements that will affect operators and adherence will drive up the cost of operating aircraft. Examples: Two Crew operations under some conditions on even small Cessna Caravans, reduction in the number of passengers that can be carried, new expensive equipment requirements such as TCAS and Ground Proximity Warning Systems, etc., etc.

It does indeed appear that Kenyan General Aviation has been sacrificed on the altar of the FAA and ICAO.

### **DISPENSATION ON PRIVATE AIRCRAFT TAXIING TO TERMINAL AT WILSON WORKING FINE**

So far, the relaxation of the requirement for "Private Aircraft" to taxi to the Wilson Terminal for a 'security check' seems to be working well. The Tower is using the 'approved list' of eligible aircraft and, aside from some minor glitches and misunderstandings, the dispensation is running smoothly. Those Aero Club members who are owners/operators of "Private" aircraft, who for one reason or another are not on "the list", please advise Chairman Harro Trempenau. A revised list will be submitted this week to capture any errors or omissions. The list will be updated monthly thereafter.

### **NANYUKI AIRFIELD UNDER REPAIR**

Be advised that Tropic Air is repairing the Runway at Nanyuki Airport, starting from threshold RWY 21. Exercise extreme caution when landing and taking off. Pilots should be patient whilst the workers clear the runway before any landings. Operators of larger aircraft, such as the DHC Dash 7, should call beforehand to find out if the width of the runway will be sufficient for such aircraft that day. For further information, please

## **WORKMEN'S INJURY BENEFITS ACT (WIBA) SEMINAR SCHEDULED AT AERO CLUB**

The new Kenya Civil Aviation Regulations are not the only recent legislation that has been pushed through by the Government without regard for the effects on the economy and employment in Kenya. Other new laws, where insufficient thought seems to have been given by the legislators, have followed hot on the heels of KCARS, including the recent Tobacco Control Act and particularly the new Workmen's Injury Benefit Act (WIBA). In all cases, these Acts appear to have been pushed through under the guise that Kenya must meet international standards. In the case of the KCARS, the justification for implementing such injurious regulations was that "it is an ICAO Requirement". Nothing is, of course, further from the truth. ICAO regulations give leeway for some countries lagging behind in meeting its SARPS, and in most cases, ICAO only suggests "Recommended Procedures".

The latest Workmen's Injury Benefit Act is, supposedly, a law that is required by the ILO, the International Labour Organization. Allegedly, all workers in the world must be "protected" with a safety net if injured on the job. The burden for that falls (not unexpectedly) squarely on the employers. The question is, can a country with 60% unemployment and a minute and fragile economy that just went through the post-election trauma, afford this? It does not stop there, as we are told in the Press on Saturday that employers will soon also have to pay for the medical benefits of the masses of unemployed.

Some examples of the new workmens' compensation rules:

1. Employees are not only full-time workers, but also casuals. All must be protected.
1. If an employee dies through a work-related accident, the employer has to compensate the family with the equivalent of 8 years salary.
2. Maternity leave of three months has to be paid. Nothing new there, but now there is also "paternity leave" for the lucky dad. It is not clear if paternity leave applies only in the case of children fathered within a marriage or also all the "others".
3. Medical benefits for injuries in the course of the work day. It is not clear whether the work day includes the journey to work.

The fallout from this new law is unlikely to be too far off as employers will likely hesitate to hire young people who are in the ages of high fecundity. Women over 45 will, on the other hand, have an advantage in their job hunt.

Kenyan insurance companies are gearing up to offer protection from this generous Act to employers, but mainly for subordinate and intermediate staff. For professional staff and high risk categories (such as "expensive" pilots), there are limitations. Air operators are, of course, concerned about their liability if one of their pilots were to succumb in a fatal crash and they would be liable to pay 8 years salary to the heirs.

To find out more about this new Law and its implications, APA Insurance will hold two WIBA Seminars at the Aero Club of East Africa, one on Thursday, 11th September 2008 and the other on Thursday, 18th September 2008, from 18:00 Hours to 20:00 Hours.

You are cordially invited to attend one of the APA Seminars. There will be a Powerpoint Presentation to inform the business community and all employers of their rights and obligations under the WIBA Act. Guests are encouraged to ask questions on any aspect or portion of the Act that requires clarification. For catering purposes (refreshments will be served), please let Joan Edwards of the APA Insurance office, located conveniently at the Aero Club of East Africa at Wilson Airport, know which evening would be preferable. Her number is 0735 600 470.

Aero-News is published as a service to Members of the Aero Club of East Africa, to keep them informed about aviation in East Africa. Contributions are welcome. If you have some comments or suggestions, do not wish to receive this newsletter, or if you want to be added to the mailing list, please send a message to Harro V. Trempenau, Chairman, Aero Club of East Africa, [harro@trumpetnose.com](mailto:harro@trumpetnose.com)

